

REMARKS

Reconsideration and entry of these remarks are respectfully requested. Claims 1, 3-20, 22-28, 30-39 and 41 are pending.

Claims 1, 3-7, 9, 12-14, 17-20, 22-24, 28, 30-34, 36, 39, and 41 stand rejected under 35 U.S.C. 102(e) as being anticipated by Phaal. This rejection is respectfully traversed.

With regard to claims 1 and 28, the Examiner is considering the claimed second party to be the server of Phaal and the claimed first party to be the client of Phaal as is clear from the first bullet paragraph of page 3 of the Office Action. The Examiner then states that Phaal generates “a HTML page (special web page as part of the deferred message) having instructions (countdown function) for a browser to notify (resubmit request) the second party of a new application session for the second party so as to present the message to the second party... Note that the deferring message consists of a HTML page to *client* for counting down to resubmit the message.” (emphasis added) The Examiner has thus improperly also designated the “client” of Phaal as the claimed second party. The Examiner’s application of Phaal is inconsistent, since the client cannot be both the first and second parties as claimed. In Phaal, a web page is sent to the client (e.g., first party), not to a second party to notify the second party of a new application session. Hence Phaal does not anticipate claims 1 and 28.

In addition, Phaal is silent as to generating an HTML page having a URL therein for causing the browser to request interruption of an application session of the second party to create a new application session for the second party. In Phaal, “bumping” is performed by the admission control gateway 125 when resources are stretched. The “bumping” in Phaal does not create a new session for a second party. The “special web page” of Phaal is not a teaching of an HTML page. There is simply no teaching in Phaal of inserting a URL in an HTML page as claimed.

With regard to claims 3 and 30, the Examiner contends that in Phaal, “the URL includes the new session identifier for interrupting the present session of the second party with the new application session. However, as noted above, Phaal does not

teach inserting a URL in an HTML page. Phaal merely teaches that the admission control gateway monitors header information in each message.

With regard to claim 12, the claim recites generating, in the first application instance, an HTML page having instructions for a persistent browser instance, having received the HTML page, to interrupt a present application session of the second party and initiate a new application session for the second party. In Phaal, a user (first party) is provided a web page generated by the deferral manager 131. The web page has a deferred message indicating that the server (second party) is temporarily serving other clients and then the user's browser automatically contacts the server after a certain amount of time to resubmit a request. In Phaal, once the certain amount of time has passed, the web page automatically directs the browser to the same URL, which resulted in the deferral. See column 7, lines 27-44 of Phaal. Thus, in Phaal, the user's instance (first application instance) does not generate a HTML page having instructions to interrupt another party's session and initiate a new application session for the second party.

With regard to claims 20 and 39, Phaal does not teach an HTML document for a first party (e.g., client) that has instructions to interrupt a present application session of a second party to create the new application session for the second party. The claims require that a new session be created for the second party. In Phaal, if the Examiner is considering the second party to be a party that is "bumped" by a higher priority message, a new session is not created for the second, bumped party. Furthermore, these claims recite "an application server". The deferral manager 131 of Phaal, which generates a web page having a deferral message for the user, is not an application server having an application runtime environment configured to access a common resource as claimed.

Hence, the 102(e) rejection of the claims should be withdrawn because it fails to demonstrate that the applied reference discloses each and every element of the claim. See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference which are vague or based on conjecture." Studiengesellschaft Kohle

mbH v. Dart Industries, Inc., 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), aff'd., 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

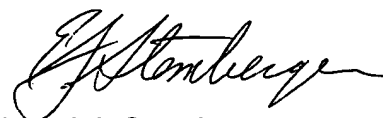
Claims 8, 16 and 35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Phaal in view of Alles et al. and claims 10, 15, 25 and 37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Phaal in view of Vaid et al. These claims are dependent claims and are considered to be allowable for the reasons advanced above and for the additional reason that the added subject matter thereof is not taught or suggested by the prior art of record.

Claims 11 and 38 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Phaal in view of Obhan et al. This rejection is respectfully traversed.

The Examiner contends that it would have been obvious to modify the special web page of Phaal to include the talking voice mail message as taught by Obhan. Even if this modification were made, it would not result in the features of claims 11 and 38. In particular, claims 11 and 38 require an HTML page having instructions for playing a voice message. Neither Phaal nor Obhan mentions HTML. Thus, the rejection is improper and should be withdrawn.

All rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,



Edward J. Stemberger
Registration No. 36,017
Phone: 202.261.1014
Fax: 202.997.0336

Customer No.: 23164

January 3, 2005